

APPEAL NO. 021764  
FILED AUGUST 13, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 6, 2002. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the 10th and 11th quarters. The claimant appealed and the respondent (carrier) responded.

DECISION

The hearing officer's decision is affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The SIBs criterion in dispute is whether the claimant made a good faith effort to obtain employment commensurate with his ability to work during the qualifying periods for the 10th and 11th quarters, which were from October 19, 2001, to April 18, 2002. The claimant claimed he had no ability to work during the relevant qualifying periods. He did not document any job search for the qualifying period for the 10th quarter, and documented only one job contact during the qualifying period for the 11th quarter. He was not participating in any vocational rehabilitation program sponsored by the Texas Rehabilitation Commission or by a private provider of such services, and he said he was not working during the relevant qualifying periods.

Rule 130.102(d)(4) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has been unable to perform any type of work in any capacity, has provided a narrative report from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work. Rule 130.102(e) provides in part that, except as provided in subsection (d)(1), (2), (3), and (4) of Rule 130.102, an injured employee who has not returned to work and is able to return to work in any capacity shall look for employment commensurate with his or her ability to work every week of the qualifying period and document his or her job search efforts.

The hearing officer determined that during the relevant qualifying periods, the claimant was not totally unable to perform any type of work in any capacity, did not seek employment commensurate with his ability to work, and did not make a good faith search for employment commensurate with his ability to work. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and

preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **LIBERTY MUTUAL FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEMS  
350 NORTH ST. PAUL STREET  
SUITE 2900  
DALLAS, TEXAS 75201.**

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Robert W. Potts  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Philip F. O'Neill  
Appeals Judge